

AMENDED IN ASSEMBLY JUNE 9, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 851

**Introduced by Committee on Public Safety (Senators McPherson
(Chair), Burton, Margett, Romero, Sher, and Vasconcellos)**

February 21, 2003

An act to amend Section 917 of the Evidence Code, to amend Sections *171.5*, *629.62*, *633*, *803*, *830.31*, *847*, ~~*1170.011*~~ *981*, *1170.11*, *1202.1*, *1203.1abc*, *1203.3*, *11171*, *12022.5*, and *14309* of the Penal Code, to amend Section 14601 of the Vehicle Code, and to amend Section 15763 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 851, as amended, Committee on Public Safety. Public safety.

(1) Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This would make numerous, nonsubstantive changes to these provisions.

(2) Existing law provides that the Attorney General, district attorney, or specified other law enforcement officers are not prohibited from overhearing or recording any communication that they could lawfully overhear or record, prior to the enactment of specified prohibitions on the eavesdropping or recording of specified communications.

This bill would add to the law enforcement officers listed in this provision police officers of the County of Los Angeles and ~~park rangers~~.

(3) Under existing law, except as specified, a prescribed limitation of time for certain offenses is not tolled or extended for any reason. Existing law provides that for specified offenses a prescribed limitation of time does not commence to run until the discovery of that offense. This provision is applicable to those offenses punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, specified offenses.

This bill would revise and recast these provisions regarding elder or dependent adults.

(4) Existing law defines certain persons as peace officers, including safety police officers of the County of Los Angeles, who may carry firearms and whose authority extends to any place in the state for the purpose of performing their duties and making arrests, as specified.

This bill would change the reference to police officers of the County of Los Angeles.

(5) Existing law establishes a 5-year pilot program that authorizes the court to require any adult who has been convicted of a nonviolent or nonserious offense to participate in a program designed to assist the person in obtaining the equivalent of a 12th grade education as a condition of probation. This program is operable only upon approval of a county's board of supervisors. Existing law also authorizes the court to require a probationer to participate in a literacy or General Education Development Program. Existing law repeals this program on January 1, 2004, unless it is extended or made permanent by subsequent legislation.

This bill would extend the repeal date of this program to January 1, 2008.

(6) Existing law requires that each county establish an emergency response adult protective services program. Existing law requires a county to respond immediately to any report of imminent danger to an elder or dependent adult residing in other than a long-term care facility or a residential facility. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall report to the local long-term care ombudsman program, as specified. Except as specified, existing law requires the county to respond to all other reports of danger to an elder or dependent adult in other than a



long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

This bill would provide that a county shall not be required to report or respond to a report that involves danger to an elder or dependent adult residing in any facility for the incarceration of prisoners that is operated by or under contract to the Federal Bureau of Prisons, the Department of Corrections, the California Department of the Youth Authority, a county sheriff's department, a city police department, or any other law enforcement agency when the abuse reportedly has occurred in that facility.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 917 of the Evidence Code is amended
2 to read:
3 917. (a) Whenever a privilege is claimed on the ground that
4 the matter sought to be disclosed is a communication made in
5 confidence in the course of the lawyer-client, physician-patient,
6 psychotherapist-patient, clergyman-penitent, husband-wife,
7 sexual assault victim-counselor, or domestic violence
8 victim-counselor relationship, the communication is presumed to
9 have been made in confidence and the opponent of the claim of
10 privilege has the burden of proof to establish that the
11 communication was not confidential.
12 (b) A communication between persons in a relationship listed
13 in subdivision (a) does not lose its privileged character for the sole
14 reason that it is communicated by electronic means or because
15 persons involved in the delivery, facilitation, or storage of
16 electronic communication may have access to the content of the
17 communication.
18 (c) For purposes of this section, "electronic" has the same
19 meaning provided in Section 1633.2 of the Civil Code.
20 SEC. 1.5. Section 171.5 of the Penal Code is amended to read:
21 171.5. (a) For purposes of this section:
22 (1) "Airport" means an airport, with a secured area, that
23 regularly serves an air carrier holding a certificate issued by the
24 United States Secretary of Transportation.



(2) “Sterile area” means a portion of an airport defined in the airport security program to which access generally is controlled through the screening of persons and property, as specified in Section 1540.5 of Title 49 of the Code of Federal Regulations.

(b) It is unlawful for any person to knowingly possess within any sterile area of an airport, any of the items listed in subdivision (c).

(c) The following items are unlawful to possess as provided in subdivision ~~(a)~~ (b):

(1) Any firearm.

(2) Any knife with a blade length in excess of four inches, the blade of which is fixed, *or is capable of being fixed*, in an unguarded position by the use of one or two hands.

(3) Any box cutter or straight razor.

(4) Any metal military practice hand grenade.

(5) Any metal replica hand grenade.

(6) Any plastic replica hand grenade.

(7) Any imitation firearm as defined in Section 417.4.

(8) Any frame, receiver, barrel, or magazine of a firearm.

(9) Any unauthorized tear gas weapon.

(10) Any taser or stun gun, as defined in Section 244.5.

(11) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun or paint gun.

(12) Any ammunition as defined in Section 12316.

(d) Subdivision (b) shall not apply to, or affect, any of the following:

(1) A duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in subdivision (a) of Section 12027, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(2) A person who has authorization to possess a weapon specified in subdivision (c), granted in writing by an airport security coordinator who is designated as specified in Section 1542.3 of Title 49 of the Code of Federal Regulations, and who is responsible for the security of the airport.

(e) A violation of this section is punishable by imprisonment in a county jail for a period not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(f) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission that is punishable in different ways by this and any other provision of law shall not be punished under more than one provision.

(g) Nothing in this section is intended to affect existing state or federal law regarding the transportation of firearms on airplanes in checked luggage, or the possession of the items listed in subdivision (c) in areas that are not “sterile areas.”

SEC. 2. Section 629.62 of the Penal Code is amended to read:

629.62. (a) The Attorney General shall prepare and submit an annual report to the Legislature, the Judicial Council, and the Director of the Administrative Office of the United States Court on interceptions conducted under the authority of this chapter during the preceding year. Information for this report shall be provided to the Attorney General by any prosecutorial agency seeking an order pursuant to this chapter.

(b) The report shall include all of the following data:

(1) The number of orders or extensions applied for.

(2) The kinds of orders or extensions applied for.

(3) The fact that the order or extension was granted as applied for, was modified, or was denied.

(4) The number of wire, electronic pager, and electronic cellular telephone devices that are the subject of each order granted.

(5) The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

(6) The offense specified in the order or application, or extension of an order.

(7) The identity of the applying law enforcement officer and agency making the application and the person authorizing the application.

(8) The nature of the facilities from which or the place where communications were to be intercepted.

(9) A general description of the interceptions made under the order or extension, including (A) the approximate nature and

1 frequency of incriminating communications intercepted, (B) the
2 approximate nature and frequency of other communications
3 intercepted, (C) the approximate number of persons whose
4 communications were intercepted, and (D) the approximate
5 nature, amount, and cost of the manpower and other resources used
6 in the interceptions.

7 (10) The number of arrests resulting from interceptions made
8 under the order or extension, and the offenses for which arrests
9 were made.

10 (11) The number of trials resulting from the interceptions.

11 (12) The number of motions to suppress made with respect to
12 the interceptions, and the number granted or denied.

13 (13) The number of convictions resulting from the
14 interceptions and the offenses for which the convictions were
15 obtained and a general assessment of the importance of the
16 interceptions.

17 (14) Except with regard to the initial report required by this
18 section, the information required by paragraphs (9) to (13),
19 inclusive, with respect to orders or extensions obtained in a
20 preceding calendar year.

21 (15) The date of the order for service of inventory made
22 pursuant to Section 629.68, confirmation of compliance with the
23 order, and the number of notices sent.

24 (16) Other data that the Legislature, the Judicial Council, or the
25 Director of the Administrative Office shall require.

26 (c) The annual report shall be filed no later than April of each
27 year, and shall also include a summary analysis of the data reported
28 pursuant to subdivision (b). The Attorney General may issue
29 regulations prescribing the content and form of the reports
30 required to be filed pursuant to this section by any prosecutorial
31 agency seeking an order to intercept wire, electronic pager, or
32 electronic cellular telephone communications.

33 (d) The Attorney General shall, upon the request of an
34 individual making an application, provide any information known
35 to him or her as a result of these reporting requirements that would
36 enable the individual making an application to comply with
37 paragraph (6) of subdivision (a) of Section 629.50.

38 SEC. 3. Section 633 of the Penal Code is amended to read:

39 633. Nothing in Section 631, 632, 632.5, 632.6, or 632.7
40 prohibits the Attorney General, any district attorney, or any

1 assistant, deputy, or investigator of the Attorney General or any
2 district attorney, any officer of the California Highway Patrol, any
3 chief of police, assistant chief of police, or police officer of a city
4 or city and county, any sheriff, undersheriff, or deputy sheriff
5 regularly employed and paid in that capacity by a county, police
6 officer of the County of Los Angeles, ~~park ranger~~ or any person
7 acting pursuant to the direction of one of these law enforcement
8 officers acting within the scope of his or her authority, from
9 overhearing or recording any communication that they could
10 lawfully overhear or record prior to the effective date of this
11 chapter.

12 Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders
13 inadmissible any evidence obtained by the above-named persons
14 by means of overhearing or recording any communication that
15 they could lawfully overhear or record prior to the effective date
16 of this chapter.

17 SEC. 4. Section 803 of the Penal Code is amended to read:

18 803. (a) Except as provided in this section, a limitation of
19 time prescribed in this chapter is not tolled or extended for any
20 reason.

21 (b) No time during which prosecution of the same person for
22 the same conduct is pending in a court of this state is a part of a
23 limitation of time prescribed in this chapter.

24 (c) A limitation of time prescribed in this chapter does not
25 commence to run until the discovery of an offense described in this
26 subdivision. This subdivision applies to an offense punishable by
27 imprisonment in the state prison, a material element of which is
28 fraud or breach of a fiduciary obligation, or the basis of which is
29 misconduct in office by a public officer, employee, or appointee,
30 or to theft or embezzlement from an elder or dependent adult
31 punishable by imprisonment in the state prison, including, but not
32 limited to, the following offenses:

33 (1) Grand theft of any type, forgery, falsification of public
34 records, or acceptance of a bribe by a public official or a public
35 employee.

36 (2) A violation of Section 72, 118, 118a, 132, or 134.

37 (3) A violation of Section 25540, of any type, or Section 25541
38 of the Corporations Code.

39 (4) A violation of Section 1090 or 27443 of the Government
40 Code.

1 (5) Felony welfare fraud or Medi-Cal fraud in violation of
2 Section 11483 or 14107 of the Welfare and Institutions Code.

3 (6) Felony insurance fraud in violation of Section 548 or 550
4 of this code or former Section 1871.1, or Section 1871.4, of the
5 Insurance Code.

6 (7) A violation of Section 580, 581, 582, 583, or 584 of the
7 Business and Professions Code.

8 (8) A violation of Section 22430 of the Business and
9 Professions Code.

10 (9) A violation of Section 10690 of the Health and Safety Code.

11 (10) A violation of Section 529a.

12 (11) A violation of subdivision (d) or (e) of Section 368.

13 (d) If the defendant is out of the state when or after the offense
14 is committed, the prosecution may be commenced as provided in
15 Section 804 within the limitations of time prescribed by this
16 chapter, and no time up to a maximum of three years during which
17 the defendant is not within the state shall be a part of those
18 limitations.

19 (e) A limitation of time prescribed in this chapter does not
20 commence to run until the offense has been discovered, or could
21 have reasonably been discovered, with regard to offenses under
22 Division 7 (commencing with Section 13000) of the Water Code,
23 under Chapter 6.5 (commencing with Section 25100) of, Chapter
24 6.7 (commencing with Section 25280) of, or Chapter 6.8
25 (commencing with Section 25300) of, Division 20 of, or Part 4
26 (commencing with Section 41500) of Division 26 of, the Health
27 and Safety Code, or under Section 386, or offenses under Chapter
28 5 (commencing with Section 2000) of Division 2 of, Chapter 9
29 (commencing with Section 4000) of Division 2 of, Chapter 10
30 (commencing with Section 7301) of Division 3 of, or Chapter 19.5
31 (commencing with Section 22440) of Division 8 of, the Business
32 and Professions Code.

33 (f) (1) Notwithstanding any other limitation of time described
34 in this chapter, a criminal complaint may be filed within one year
35 of the date of a report to a responsible adult or agency by a child
36 under 18 years of age that the child is a victim of a crime described
37 in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

38 (2) For purposes of this subdivision, a “responsible adult” or
39 “agency” means a person or agency required to report pursuant to

1 Section 11166. This subdivision applies only if both of the
2 following occur:

3 (A) The limitation period specified in Section 800 or 801 has
4 expired.

5 (B) The defendant has committed at least one violation of
6 Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same
7 victim within the limitation period specified for that crime in either
8 Section 800 or 801.

9 (3) (A) This subdivision applies to a cause of action arising
10 before, on, or after January 1, 1990, the effective date of this
11 subdivision, and it shall revive any cause of action barred by
12 Section 800 or 801 if any of the following occurred or occurs:

13 (i) The complaint or indictment was filed on or before January
14 1, 1997, and it was filed within the time period specified in this
15 subdivision.

16 (ii) The complaint or indictment is or was filed subsequent to
17 January 1, 1997, and it is or was filed within the time period
18 specified within this subdivision.

19 (iii) The victim made the report required by this subdivision to
20 a responsible adult or agency after January 1, 1990, and a
21 complaint or indictment was not filed within the time period
22 specified in this subdivision, but a complaint or indictment is filed
23 no later than 180 days after the date on which either a published
24 opinion of the California Supreme Court, deciding whether
25 retroactive application of this section is constitutional, becomes
26 final or the United States Supreme Court files an opinion deciding
27 the question of whether retroactive application of this subdivision
28 is constitutional, whichever occurs first.

29 (iv) The victim made the report required by this subdivision to
30 a responsible adult or agency after January 1, 1990, and a
31 complaint or indictment was filed within the time period specified
32 in this subdivision, but the indictment, complaint, or subsequently
33 filed information was dismissed, but a new complaint or
34 indictment is or was filed no later than 180 days after the date on
35 which either a published opinion of the California Supreme Court,
36 deciding whether retroactive application of this section is
37 constitutional, becomes final or the United States Supreme Court
38 files an opinion deciding the question of whether retroactive
39 application of this subdivision is constitutional, whichever occurs
40 first.

(B) (i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that clearly and convincingly corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1994, the effective date of this

subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days

1 after the date on which either a published opinion of the California
2 Supreme Court, deciding the question of whether retroactive
3 application of this section is constitutional, becomes final or the
4 United States Supreme Court files an opinion deciding the
5 question of whether retroactive application of this subdivision is
6 constitutional, whichever occurs first, shall not be considered an
7 order terminating an action within the meaning of Section 1387.

8 (iii) Any ruling regarding the retroactivity of this subdivision
9 or its constitutionality made in the course of the previous
10 proceeding, by any trial court or any intermediate appellate court,
11 shall not be binding upon refiling.

12 (h) (1) Notwithstanding any other limitation of time described
13 in this chapter, a criminal complaint may be filed within one year
14 of the date of a report to a California law enforcement agency by
15 a person under 21 years of age, alleging that he or she, while under
16 18 years of age, was the victim of a crime described in Section 261,
17 286, 288, 288a, 288.5, 289, or 289.5.

18 (2) This subdivision applies only if both of the following occur:

19 (A) The limitation period specified in Section 800 or 801 has
20 expired.

21 (B) The crime involved substantial sexual conduct, as
22 described in subdivision (b) of Section 1203.066, excluding
23 masturbation that is not mutual, and there is independent evidence
24 that corroborates the victim's allegation. No evidence may be used
25 to corroborate the victim's allegation that otherwise would be
26 inadmissible during trial. Independent evidence does not include
27 the opinions of mental health professionals.

28 (3) This subdivision applies to a cause of action arising before,
29 on, or after January 1, 2002, the effective date of this subdivision,
30 and it shall revive any cause of action barred by Section 800 or 801
31 if the complaint or indictment was filed within the time period
32 specified by this subdivision.

33 (i) (1) Notwithstanding the limitation of time described in
34 Section 800, the limitations period for commencing prosecution
35 for a felony offense described in subparagraph (A) of paragraph
36 (2) of subdivision (a) of Section 290, where the limitations period
37 set forth in Section 800 has not expired as of January 1, 2001, or
38 the offense is committed on or after January 1, 2001, shall be 10
39 years from the commission of the offense, or one year from the
40 date on which the identity of the suspect is conclusively

1 established by DNA testing, whichever is later, provided,
2 however, that the one-year period from the establishment of the
3 identity of the suspect shall only apply when either of the
4 following conditions is met:

5 (A) For an offense committed prior to January 1, 2001,
6 biological evidence collected in connection with the offense is
7 analyzed for DNA type no later than January 1, 2004.

8 (B) For an offense committed on or after January 1, 2001,
9 biological evidence collected in connection with the offense is
10 analyzed for DNA type no later than two years from the date of the
11 offense.

12 (2) In the event the conditions set forth in subparagraph (A) or
13 (B) of paragraph (1) are not met, the limitations period for
14 commencing prosecution for a felony offense described in
15 subparagraph (A) of paragraph (2) of subdivision (a) of Section
16 290, where the limitations period set forth in Section 800 has not
17 expired as of January 1, 2001, or the offense is committed on or
18 after January 1, 2001, shall be 10 years from the commission of the
19 offense.

20 (3) For purposes of this section, “DNA” means
21 deoxyribonucleic acid.

22 (j) For any crime, the proof of which depends substantially
23 upon evidence that was seized under a warrant, but which is
24 unavailable to the prosecuting authority under the procedures
25 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
26 703, *People v. Superior Court (Bauman & Rose)* (1995) 37
27 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
28 claims of evidentiary privilege or attorney work product, the
29 limitation of time prescribed in this chapter shall be tolled from the
30 time of the seizure until final disclosure of the evidence to the
31 prosecuting authority. Nothing in this section otherwise affects the
32 definition or applicability of any evidentiary privilege or attorney
33 work product.

34 (k) (1) In a criminal investigation involving child sexual abuse
35 as described in subdivision (g) or (h), when the limitations period
36 set forth therein has not expired, that period shall be tolled from
37 the time a party initiates litigation challenging a grand jury
38 subpoena until the end of that litigation, including any associated
39 writ or appellate proceeding, or until the final disclosure of

1 evidence to the investigating or prosecuting agency, if that
2 disclosure is ordered pursuant to the subpoena after the litigation.

3 (2) Nothing in this subdivision affects the definition or
4 applicability of any evidentiary privilege.

5 (3) This subdivision shall not apply where a court finds that the
6 grand jury subpoena was issued or caused to be issued in bad faith.

7 (l) As used in subdivisions (f), (g), and (h), Section 289.5 refers
8 to the statute enacted by Chapter 293 of the Statutes of 1991
9 relating to penetration by an unknown object.

10 SEC. 5. Section 830.31 of the Penal Code is amended to read:

11 830.31. The following persons are peace officers whose
12 authority extends to any place in the state for the purpose of
13 performing their primary duty or when making an arrest pursuant
14 to Section 836 as to any public offense with respect to which there
15 is immediate danger to person or property, or of the escape of the
16 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
17 the Government Code. These peace officers may carry firearms
18 only if authorized, and under the terms and conditions specified,
19 by their employing agency.

20 (a) A police officer of the County of Los Angeles, if the
21 primary duty of the officer is the enforcement of the law in or about
22 properties owned, operated, or administered by his or her
23 employing agency or when performing necessary duties with
24 respect to patrons, employees, and properties of his or her
25 employing agency.

26 (b) A person designated by a local agency as a park ranger and
27 regularly employed and paid in that capacity, if the primary duty
28 of the officer is the protection of park and other property of the
29 agency and the preservation of the peace therein.

30 (c) (1) A peace officer of the Department of General Services
31 of the City of Los Angeles designated by the general manager of
32 the department, if the primary duty of the officer is the
33 enforcement of the law in or about properties owned, operated, or
34 administered by his or her employing agency or when performing
35 necessary duties with respect to patrons, employees, and
36 properties of his or her employing agency.

37 (2) A peace officer designated pursuant to this subdivision, and
38 authorized to carry firearms by his or her employing agency, shall
39 satisfactorily complete the introductory course of firearm training

1 required by Section 832 and shall requalify in the use of firearms
2 every six months.

3 (3) Notwithstanding any other provision of law, a peace officer
4 designated pursuant to this subdivision who is authorized to carry
5 a firearm by his or her employing agency while on duty; shall not
6 be authorized to carry a firearm when he or she is not on duty.

7 (d) A housing authority patrol officer employed by the housing
8 authority of a city, district, county, or city and county or employed
9 by the police department of a city and county, if the primary duty
10 of the officer is the enforcement of the law in or about properties
11 owned, operated, or administered by his or her employing agency
12 or when performing necessary duties with respect to patrons,
13 employees, and properties of his or her employing agency.

14 SEC. 6. Section 847 of the Penal Code is amended to read:

15 847. (a) A private person who has arrested another for the
16 commission of a public offense must, without unnecessary delay,
17 take the person arrested before a magistrate, or deliver him or her
18 to a peace officer.

19 (b) There shall be no civil liability on the part of, and no cause
20 of action shall arise against, any peace officer or federal criminal
21 investigator or law enforcement officer described in subdivision
22 (a) or (d) of Section 830.8, acting within the scope of his or her
23 authority, for false arrest or false imprisonment arising out of any
24 arrest under any of the following circumstances:

25 (1) The arrest was lawful, or the peace officer, at the time of the
26 arrest, had reasonable cause to believe the arrest was lawful.

27 (2) The arrest was made pursuant to a charge made, upon
28 reasonable cause, of the commission of a felony by the person to
29 be arrested.

30 (3) The arrest was made pursuant to the requirements of
31 Section 142, 837, 838, or 839.

32 SEC. 6.5. *Section 981 of the Penal Code is amended to read:*

33 981. The bench warrant ~~upon the indictment or information~~
34 ~~must, if the offense is a felony,~~ be substantially in the following
35 form:

36 County of _____. The People of the State of California to any
37 Sheriff, Marshal, or Policeman in this State: An ~~indictment~~
38 ~~accusatory pleading~~ having been ~~found (or information filed)~~
39 ~~filed~~ on the ____ day of _____, A.D. ~~nineteen~~ _____, in the Superior
40 Court of the County of _____, charging C. D. with the crime of _____

(designating it generally); you are, therefore, commanded forthwith to arrest the above named C. D., and bring him *or her* before that Court (or if the ~~indictment and information~~ *accusatory pleading* has been sent to another Court, then before that Court, naming it), to answer said ~~indictment (or information)~~ *accusatory pleading*, or if the Court ~~be~~ is not in session, that you deliver him into the custody of the Sheriff of the County of ____.

Given under my hand, with the seal of said Court affixed, this ____ day of ____, A.D. ____.

By order of said Court.

[SEAL.]

E. F., Clerk.

SEC. 7. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term “specific enhancement” means enhancements that relate to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

SEC. 8. Section 1202.1 of the Penal Code is amended to read:

1202.1. (a) Notwithstanding Sections 120975 and 120990 of the Health and Safety Code, the court shall order every person who is convicted of, or adjudged by the court to be a person described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of a violation of, a sexual offense listed in subdivision (e), whether or not a sentence or fine is imposed or probation is

1 granted, to submit to a blood or oral mucosal transudate saliva test
2 for evidence of antibodies to the probable causative agent of
3 acquired immune deficiency syndrome (AIDS) within 180 days of
4 the date of conviction. Each person tested under this section shall
5 be informed of the results of the blood or oral mucosal transudate
6 saliva test.

7 (b) Notwithstanding Section 120980 of the Health and Safety
8 Code, the results of the blood or oral mucosal transudate saliva test
9 to detect antibodies to the probable causative agent of AIDS shall
10 be transmitted by the clerk of the court to the Department of Justice
11 and the local health officer.

12 (c) Notwithstanding Section 120980 of the Health and Safety
13 Code, the Department of Justice shall provide the results of a test
14 or tests as to persons under investigation or being prosecuted under
15 Section 647f or 12022.85, if the results are on file with the
16 department, to the defense attorney upon request and the results
17 also shall be available to the prosecuting attorney upon request for
18 the purpose of either preparing counts for a subsequent offense
19 under Section 647f or sentence enhancement under Section
20 12022.85 or complying with subdivision (d).

21 (d) (1) In every case in which a person is convicted of a sexual
22 offense listed in subdivision (e) or adjudged by the court to be a
23 person described by Section 601 or 602 of the Welfare and
24 Institutions Code as provided in Section 725 of the Welfare and
25 Institutions Code by reason of the commission of a sexual offense
26 listed in subdivision (e), the prosecutor or the prosecutor's
27 victim-witness assistance bureau shall advise the victim of his or
28 her right to receive the results of the blood or oral mucosal
29 transudate saliva test performed pursuant to subdivision (a). The
30 prosecutor or the prosecutor's victim-witness assistance bureau
31 shall refer the victim to the local health officer for counseling to
32 assist him or her in understanding the extent to which the particular
33 circumstances of the crime may or may not have placed the victim
34 at risk of transmission of *the* human immunodeficiency virus
35 (HIV) from the accused, to ensure that the victim understands the
36 limitations and benefits of current tests for HIV, and to assist the
37 victim in determining whether he or she should make the request.

38 (2) Notwithstanding any other law, upon the victim's request,
39 the local health officer shall be responsible for disclosing test
40 results to the victim who requested the test and the person who was

1 tested. However, as specified in subdivision (g), positive test
2 results shall not be disclosed to the victim or the person who was
3 tested without offering or providing professional counseling
4 appropriate to the circumstances as follows:

5 (A) To help the victim understand the extent to which the
6 particular circumstances of the crime may or may not have put the
7 victim at risk of transmission of HIV from the perpetrator.

8 (B) To ensure that the victim understands both the benefits and
9 limitations of the current tests for HIV.

10 (C) To obtain referrals to appropriate health care and support
11 services.

12 (e) For purposes of this section, “sexual offense” includes any
13 of the following:

14 (1) Rape in violation of Section 261 or 264.1.

15 (2) Unlawful intercourse with a person under 18 years of age
16 in violation of Section 261.5 or 266c.

17 (3) Rape of a spouse in violation of Section 262 or 264.1.

18 (4) Sodomy in violation of Section 266c or 286.

19 (5) Oral copulation in violation of Section 266c or 288a.

20 (6) (A) Any of the following offenses if the court finds that
21 there is probable cause to believe that blood, semen, or any other
22 bodily fluid capable of transmitting HIV has been transferred from
23 the defendant to the victim:

24 (i) Sexual penetration in violation of Section 264.1, 266c, or
25 289.

26 (ii) Aggravated sexual assault of a child in violation of Section
27 269.

28 (iii) Lewd or lascivious conduct with a child in violation of
29 Section 288.

30 (iv) Continuous sexual abuse of a child in violation of Section
31 288.5.

32 (v) The attempt to commit any offense described in clauses (i)
33 to (iv), inclusive.

34 (B) For purposes of this paragraph, the court shall note its
35 finding on the court docket and minute order if one is prepared.

36 (f) Any blood or oral mucosal transudate saliva tested pursuant
37 to subdivision (a) shall be subjected to appropriate confirmatory
38 tests to ensure accuracy of the first test results, and under no
39 circumstances shall test results be transmitted to the victim or the
40 person who is tested unless any initially reactive test result has

1 been confirmed by appropriate confirmatory tests for positive
2 reactors.

3 (g) The local health officer shall be responsible for disclosing
4 test results to the victim who requested the test and the person who
5 was tested. However, positive test results shall not be disclosed to
6 the victim or the person who was tested without offering or
7 providing professional counseling appropriate to the
8 circumstances.

9 (h) The local health officer and the victim shall comply with all
10 laws and policies relating to medical confidentiality, subject to the
11 disclosure authorized by subdivisions (g) and (i).

12 (i) Any victim who receives information from the local health
13 officer pursuant to subdivision (g) may disclose the information as
14 he or she deems necessary to protect his or her health and safety
15 or the health and safety of his or her family or sexual partner.

16 (j) Any person who transmits test results or discloses
17 information pursuant to this section shall be immune from civil
18 liability for any action taken in compliance with this section.

19 SEC. 9. Section 1203.1abc of the Penal Code is amended to
20 read:

21 1203.1abc. (a) In addition to any other terms of
22 imprisonment, fine, and conditions of probation, the court may
23 require any adult convicted of an offense which is not a violent
24 felony, as defined in subdivision (c) of Section 667.5, or a serious
25 felony, as defined in subdivision (c) of Section 1192.7, to
26 participate in a program that is designed to assist the person in
27 obtaining the equivalent of a 12th grade education. In the case of
28 a probationer, the court may require participation in either a
29 literacy program or a General Education Development (GED)
30 program.

31 (b) A probation officer may utilize volunteers from the
32 community to provide assistance to probationers under this
33 section.

34 (c) This section shall be operable in Los Angeles County as a
35 pilot project upon approval by a majority vote of the county's
36 board of supervisors to be conducted in two courts within the
37 County of Los Angeles. It shall be operable in other counties only
38 upon approval by a majority vote of a county's board of
39 supervisors.

(d) A county probation department may utilize the volunteer services of a local college or university in evaluating the effectiveness of this program. In the County of Los Angeles, the California State University at Los Angeles (CSULA) shall evaluate the program and submit a report to the Legislature regarding the success or failure of the program. CSULA shall bear the costs of the evaluation and report.

(e) This section shall not apply to any person who is mentally or developmentally incapable of attaining the equivalent of a 12th grade education.

(f) Failure to make progress in a program under subdivision (a) is not a basis for revocation of probation.

(g) This pilot program shall be deemed successful if at least 10 percent of the persons participating in the pilot projects obtain the equivalent of a 12th grade education within three years.

(h) It is the intent of the Legislature that any increases in adult enrollment resulting from the implementation of subdivision (a) shall not be included in the apportionment of funds for adult education pursuant to Sections 52616.17 to 52616.20, inclusive, of the Education Code.

(i) This section is repealed effective January 1, 2008, unless it is extended or made permanent by subsequent legislation.

SEC. 10. Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held.

(b) The exercise of the court's authority in subdivision (a) to revoke, modify, change, or terminate probation is subject to the following:

(1) Before any sentence or term or condition of probation is modified, a hearing shall be held in open court before the judge. The prosecuting attorney shall be given a two-day written notice and an opportunity to be heard on the matter, except that, as to modifying or terminating a protective order in a case involving domestic violence, as defined in Section 6211 of the Family Code,

1 the prosecuting attorney shall be given a five-day written notice
2 and an opportunity to be heard.

3 (A) If the sentence or term or condition of probation is
4 modified pursuant to this section, the judge shall state the reasons
5 for that modification on the record.

6 (B) As used in this section, modification of sentence shall
7 include reducing a felony to a misdemeanor.

8 (2) No order shall be made without written notice first given by
9 the court or the clerk thereof to the proper probation officer of the
10 intention to revoke, modify, or change its order.

11 (3) In all cases, if the court has not seen fit to revoke the order
12 of probation and impose sentence or pronounce judgment, the
13 defendant shall at the end of the term of probation or any extension
14 thereof, be by the court discharged subject to the provisions of
15 these sections.

16 (4) The court may modify the time and manner of the term of
17 probation for purposes of measuring the timely payment of
18 restitution obligations or the good conduct and reform of the
19 defendant while on probation. The court shall not modify the
20 dollar amount of the restitution obligations due to the good
21 conduct and reform of the defendant, absent compelling and
22 extraordinary reasons, nor shall the court limit the ability of payees
23 to enforce the obligations in the manner of judgments in civil
24 actions.

25 (5) Nothing in this section shall be construed to prohibit the
26 court from modifying the dollar amount of a restitution order
27 pursuant to subdivision (f) of Section 1202.4 at any time during the
28 term of the probation.

29 (6) The court may limit or terminate a protective order that is
30 a condition of probation in a case involving domestic violence, as
31 defined in Section 6211 of the Family Code. In determining
32 whether to limit or terminate the protective order, the court shall
33 consider if there has been any material change in circumstances
34 since the crime for which the order was issued, and any issue that
35 relates to whether there exists good cause for the change,
36 including, but not limited to, consideration of all of the following:

37 (A) Whether the probationer has accepted responsibility for the
38 abusive behavior perpetrated against the victim.

39 (B) Whether the probationer is currently attending and actively
40 participating in counseling sessions.

1 (C) Whether the probationer has completed parenting
2 counseling, or attended alcoholics or narcotics counseling.

3 (D) Whether the probationer has moved from the state, or is
4 incarcerated.

5 (E) Whether the probationer is still cohabiting, or intends to
6 cohabit, with any subject of the order.

7 (F) Whether the defendant has performed well on probation,
8 including consideration of any progress reports.

9 (G) Whether the victim desires the change, and if so, the
10 victim's reasons, whether the victim has consulted a victim
11 advocate, and whether the victim has prepared a safety plan and
12 has access to local resources.

13 (H) Whether the change will impact any children involved,
14 including consideration of any child protective services
15 information.

16 (I) Whether the ends of justice would be served by limiting or
17 terminating the order.

18 (c) If a probationer is ordered to serve time in jail, and the
19 probationer escapes while serving that time, the probation is
20 revoked as a matter of law on the day of the escape.

21 (d) If probation is revoked pursuant to subdivision (c), upon
22 taking the probationer into custody, the probationer shall be
23 accorded a hearing or hearings consistent with the holding in the
24 case of *People v. Vickers* (1972) 8 Cal.3d 451. The purpose of that
25 hearing or hearings is not to revoke probation, as the revocation
26 has occurred as a matter of law in accordance with subdivision (c),
27 but rather to afford the defendant an opportunity to require the
28 prosecution to establish that the alleged violation did in fact occur
29 and to justify the revocation.

30 (e) This section does not apply to cases covered by Section
31 1203.2.

32 SEC. 11. Section 11171 of the Penal Code is amended to read:

33 11171. (a) (1) The Legislature hereby finds and declares that
34 adequate protection of victims of child physical abuse or neglect
35 has been hampered by the lack of consistent and comprehensive
36 medical examinations.

37 (2) Enhancing examination procedures, documentation, and
38 evidence collection relating to child abuse or neglect will improve
39 the investigation and prosecution of child abuse or neglect as well
40 as other child protection efforts.



(b) On or before January 1, 2004, the Office of Criminal Justice Planning shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California ~~State~~ District Attorneys Association, the California ~~State Sheriffs~~ *Sheriffs'* Association, the California Peace ~~Officers~~ *Officers'* Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination ~~protocol~~ *protocols* for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The form shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

(5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.

(6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

(7) Procedures for the preservation and disposition of evidence.

(8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.

(9) An assessment as to whether there are findings that indicate physical abuse or neglect.

~~(e)~~

(d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the Office of Criminal Justice Planning and subject to the

1 confidentiality laws pertaining to the release of a medical forensic
2 examination records.

3 ~~(D)~~

4 (e) The forms shall be made accessible for use on the Internet.

5 SEC. 12. Section 12022.5 of the Penal Code is amended to
6 read:

7 12022.5. (a) Except as provided in subdivision (b), any
8 person who personally uses a firearm in the commission of a
9 felony or attempted felony shall be punished by an additional and
10 consecutive term of imprisonment in the state prison for 3, 4, or
11 10 years, unless use of a firearm is an element of that offense.

12 (b) Notwithstanding subdivision (a), any person who
13 personally uses an assault weapon, as specified in Section 12276
14 or Section 12276.1, or a machinegun, as defined in Section 12200,
15 in the commission of a felony or attempted felony, shall be
16 punished by an additional and consecutive term of imprisonment
17 in the state prison for 5, 6, or 10 years.

18 (c) Notwithstanding Section 1385 or any other provision of
19 law, the court shall not strike an allegation under this section or a
20 finding bringing a person within the provisions of this section.

21 (d) Notwithstanding the limitation in subdivision (a) relating to
22 being an element of the offense, the additional term provided by
23 this section shall be imposed for any violation of Section 245 if a
24 firearm is used, or for murder if the killing is perpetrated by means
25 of shooting a firearm from a motor vehicle, intentionally at another
26 person outside of the vehicle with the intent to inflict great bodily
27 injury or death.

28 (e) When a person is found to have personally used a firearm,
29 an assault weapon, or a machinegun in the commission of a felony
30 or attempted felony as provided in this section and the firearm,
31 assault weapon, or machinegun is owned by that person, the court
32 shall order that the firearm be deemed a nuisance and disposed of
33 in the manner provided in Section 12028.

34 (f) For purposes of imposing an enhancement under Section
35 1170.1, the enhancements under this section shall count as one,
36 single enhancement.

37 SEC. 13. Section 14309 of the Penal Code is amended to read:

38 14309. (a) The Environmental Circuit Prosecutor Project, a
39 cooperative project of the California Environmental Protection

1 Agency and the California District Attorneys Association, is
2 hereby established.

3 (b) The Environmental Circuit Prosecutor Project shall have
4 the following purposes:

5 (1) Discourage the commission of violations of environmental
6 laws by demonstrating the effective response of the criminal
7 justice system to these violations, including, but not limited to,
8 assisting district attorneys, particularly in rural counties, in the
9 prosecution of criminal violations of environmental laws and
10 regulations, where a district attorney has requested assistance.

11 (2) Establish model environmental crime prevention,
12 enforcement, and prosecution techniques with statewide
13 application for fair, uniform, and effective application.

14 (3) Increase the awareness and effectiveness of efforts to
15 enforce environmental laws and to better integrate environmental
16 prosecution into California's established criminal justice system
17 by providing on the job education and training to local peace
18 officers and prosecutors and to local and state environmental
19 regulators.

20 (4) Promote, through uniform and effective prosecution and
21 local assistance, the effective enforcement of environmental laws
22 and regulations.

23 (c) (1) The secretary shall award project grants and administer
24 funding from the account to the California District Attorneys
25 Association for the purpose of providing for the day-to-day
26 operations of the project.

27 (2) The award may only be used to fund the costs of
28 prosecutors, investigators, and research attorney staff, including
29 salary, benefits, and expenses.

30 (3) Circuit prosecutor project employees may be either
31 employees of the California District Attorneys Association or
32 employees on loan from local, state, or federal governmental
33 agencies.

34 (d) (1) A district attorney may request the assistance of a
35 circuit prosecutor from the Environmental Circuit Prosecutor
36 Project for any of the following purposes:

37 (A) Assistance with the investigation and development of
38 environmental cases.

39 (B) Consultation concerning whether an environmental case
40 merits filing.



1 (C) Litigation support, including, but not limited to, the actual
2 prosecution of the case. A district attorney shall, as appropriate,
3 deputize a circuit prosecutor to prosecute cases within his or her
4 jurisdiction.

5 (2) The authority of a deputized circuit prosecutor shall be
6 consistent with and shall not exceed the authority of the elected
7 district attorney or his or her deputies.

8 (3) Violations of city or county ordinances may be prosecuted
9 by circuit prosecutors when there is an environmental nexus
10 between the ordinance and a violation of state law, federal law, or
11 both state and federal law.

12 (4) Participating district attorney offices shall provide
13 matching funds or in-kind contributions equivalent to, but not less
14 than, 20 percent of the expense of the deputized environmental
15 circuit prosecutor.

16 SEC. 14. Section 14601 of the Vehicle Code is amended to
17 read:

18 14601. (a) No person shall drive a motor vehicle at any time
19 when that person's driving privilege is suspended or revoked for
20 reckless driving in violation of Section 23103 or 23104, any reason
21 listed in subdivision (a) or (c) of Section 12806 authorizing the
22 department to refuse to issue a license, negligent or incompetent
23 operation of a motor vehicle as prescribed in subdivision (e) of
24 Section 12809, or negligent operation as prescribed in Section
25 12810.5, if the person so driving has knowledge of the suspension
26 or revocation. Knowledge shall be conclusively presumed if
27 mailed notice has been given by the department to the person
28 pursuant to Section 13106. The presumption established by this
29 subdivision is a presumption affecting the burden of proof.

30 (b) Any person convicted under this section shall be punished
31 as follows:

32 (1) Upon a first conviction, by imprisonment in ~~the~~ a county
33 jail for not less than five days or more than six months and by a fine
34 of not less than three hundred dollars (\$300) or more than one
35 thousand dollars (\$1,000).

36 (2) If the offense occurred within five years of a prior offense
37 which resulted in a conviction of a violation of this section or
38 Section 14601.1, 14601.2, or 14601.5, by imprisonment in ~~the~~ a
39 county jail for not less than 10 days or more than one year and by



1 a fine of not less than five hundred dollars (\$500) or more than two
2 thousand dollars (\$2,000).

3 (c) If the offense occurred within five years of a prior offense
4 which resulted in a conviction of a violation of this section or
5 Section 14601.1, 14601.2, or 14601.5, and is granted probation,
6 the court shall impose as a condition of probation that the person
7 be confined in ~~the~~ a county jail for at least 10 days.

8 (d) Nothing in this section prohibits a person from driving a
9 motor vehicle, which is owned or utilized by the person's
10 employer, during the course of employment on private property
11 which is owned or utilized by the employer, except an offstreet
12 parking facility as defined in subdivision (d) of Section 12500.

13 (e) When the prosecution agrees to a plea of guilty or nolo
14 contendere to a charge of a violation of this section in satisfaction
15 of, or as a substitute for, an original charge of a violation of Section
16 14601.2, and the court accepts that plea, except, in the interest of
17 justice, when the court finds it would be inappropriate, the court
18 shall, pursuant to Section 23575, require the person convicted, in
19 addition to any other requirements, to install a certified ignition
20 interlock device on any vehicle that the person owns or operates
21 for a period not to exceed three years.

22 SEC. 15. Section 15763 of the Welfare and Institutions Code
23 is amended to read:

24 15763. (a) Each county shall establish an emergency
25 response adult protective services program that shall provide
26 in-person response, 24 hours per day, seven days per week, to
27 reports of abuse of an elder or a dependent adult, for the purpose
28 of providing immediate intake or intervention, or both, to new
29 reports involving immediate life threats and to crises in existing
30 cases. The program shall include policies and procedures to
31 accomplish all of the following:

32 (1) Provision of case management services that include
33 investigation of the protection issues, assessment of the person's
34 concerns, needs, strengths, problems, and limitations, stabilization
35 and linking with community services, and development of a
36 service plan to alleviate identified problems utilizing counseling,
37 monitoring, followup, and reassessment.

38 (2) Provisions for emergency shelter or in-home protection to
39 guarantee a safe place for the elder or dependent adult to stay until
40 the dangers at home can be resolved.

1 (3) Establishment of multidisciplinary teams to develop
2 interagency treatment strategies, to ensure maximum coordination
3 with existing community resources, to ensure maximum access on
4 behalf of elders and dependent adults, and to avoid duplication of
5 efforts.

6 (b) (1) A county shall respond immediately to any report of
7 imminent danger to an elder or dependent adult residing in other
8 than a long-term care facility, as defined in Section 9701 of the
9 Welfare and Institutions Code, or a residential facility, as defined
10 in Section 1502 of the Health and Safety Code. For reports
11 involving persons residing in a long-term care facility or a
12 residential care facility, the county shall report to the local
13 long-term care ombudsman program. Adult protective services
14 staff shall consult, coordinate, and support efforts of the
15 ombudsman program to protect vulnerable residents. Except as
16 specified in paragraph (2), the county shall respond to all other
17 reports of danger to an elder or dependent adult in other than a
18 long-term care facility or residential care facility within 10
19 calendar days or as soon as practicably possible.

20 (2) An immediate or 10-day in-person response is not required
21 when the county, based upon an evaluation of risk, determines and
22 documents that the elder or dependent adult is not in imminent
23 danger and that an immediate or 10-day in-person response is not
24 necessary to protect the health or safety of the elder or dependent
25 adult.

26 (3) The State Department of Social Services, in consultation
27 with the County Welfare Directors Association, shall develop
28 requirements for implementation of paragraph (2), including, but
29 not limited to, guidelines for determining appropriate application
30 of this section and any applicable documentation requirements.

31 (4) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department shall implement the requirements developed
34 pursuant to paragraph (3) by means of all-county letters or similar
35 instructions prior to adopting regulations for that purpose.
36 Thereafter, the department shall adopt regulations in accordance
37 with the requirements of Chapter 3.5 (commencing with Section
38 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

39 (c) A county shall not be required to report or respond to a
40 report pursuant to subdivision (b) that involves danger to an elder

1 or dependent adult residing in any facility for the incarceration of
2 prisoners that is operated by or under contract to the Federal
3 Bureau of Prisons, the Department of Corrections, the California
4 Department of the Youth Authority, a county sheriff's department,
5 a city police department, or any other law enforcement agency
6 when the abuse reportedly has occurred in that facility.

7 (d) A county shall provide case management services to elders
8 and dependent adults who are determined to be in need of adult
9 protective services for the purpose of bringing about changes in the
10 lives of victims and to provide a safety net to enable victims to
11 protect themselves in the future. Case management services shall
12 include the following, to the extent services are appropriate for the
13 individual:

14 (1) Investigation of the protection issues, including, but not
15 limited to, social, medical, environmental, physical, emotional,
16 and developmental.

17 (2) Assessment of the person's concerns and needs on whom
18 the report has been made and the concerns and needs of other
19 members of the family and household.

20 (3) Analysis of problems and strengths.

21 (4) Establishment of a service plan for each person on whom
22 the report has been made to alleviate the identified problems.

23 (5) Client input and acceptance of proposed service plans.

24 (6) Counseling for clients and significant others to alleviate the
25 identified problems and to implement the service plan.

26 (7) Stabilizing and linking with community services.

27 (8) Monitoring and followup.

28 (9) Reassessments, as appropriate.

29 ~~(d)~~

30 (e) To the extent resources are available, each county shall
31 provide emergency shelter in the form of a safe haven or in-home
32 protection for victims. Shelter and care appropriate to the needs of
33 the victim shall be provided for frail and disabled victims who are
34 in need of assistance with activities of daily living.

35 ~~(e)~~

36 (f) Each county shall designate an adult protective services
37 agency to establish and maintain multidisciplinary teams
38 including, but not limited to, adult protective services, law
39 enforcement, home health care agencies, hospitals, adult
40 protective services staff, the public guardian, private community

1 service agencies, public health agencies, and mental health
2 agencies for the purpose of providing interagency treatment
3 strategies.

4 ~~(f)~~

5 (g) Each county shall provide tangible support services, to the
6 extent resources are available, which may include, but not be
7 limited to, emergency food, clothing, repair or replacement of
8 essential appliances, plumbing and electrical repair, blankets,
9 linens, and other household goods, advocacy with utility
10 companies, and emergency response units.

11 SEC. 16. Any section of any act enacted by the Legislature
12 during the 2003 calendar year that takes effect on or before January
13 1, 2004, and that amends, amends and renumbers, adds, repeals
14 and adds, or repeals any one or more of the sections affected by this
15 act, *with the exception of Senate Bill 600*, shall prevail over this
16 act, whether that act is enacted prior to, or subsequent to, the
17 enactment of this act. The repeal, or repeal and addition, of any
18 article, chapter, part, title, or division of any code by this act shall
19 not become operative if any section of any other act that is enacted
20 by the Legislature during the 2003 calendar year and takes effect
21 on or before January 1, 2004, amends, amends and renumbers,
22 adds, repeals and adds, or repeals any section contained in that
23 article, chapter, part, title, or division.

